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17 IN THE UNITED STATES DISTRICT COURT  
18 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 UNITED STATES OF AMERICA,

21 Plaintiff,

22 vs.

23 JONATHAN JOSEPH NELSON, et al.,

24 Defendants.  
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**Case No. CR-17-00533-EMC**

**JOINT GROUP ONE NOTICE OF  
COURT'S REQUESTED  
"BELLWETHER" OBJECTIONS**

**Date: March 18, 2022**

**Time: 10:00AM**

**Dept: The Honorable Edward M. Chen  
District Judge**

**JOINT GROUP ONE LIST OF COURT'S REQUESTED "BELLWETHER" OBJECTIONS**

1 TO: THIS HONORABLE COURT; TO COUNSEL FOR THE GOVERNMENT:

2 The Group One defense has received the Court's request for a list of fifteen  
 3 "bellwether" trial objections, which this Court ordered to be filed by March 15, 2022.  
 4 Counsel for Jon Nelson, Russell Ott and Brian Wendt discussed the Court's request in an  
 5 attempt to provide the Court with a list of some of the most common objections that  
 6 counsel anticipate will be made at the upcoming trial of the Group One accused. As  
 7 Group One understood the Court's request, these objections are associated with the  
 8 government's proposed exhibits as listed in the most recent exhibit list. The objections  
 9 would also apply to testimony related to the exhibits. The Group One defense, as argued  
 10 in previous motions to sever, is not a "joint defense" given that each accused has different  
 11 interests, but in the interest of providing the Court with a list, and for purposes of this  
 12 pleading only, Msrs. Nelson, Ott and Wendt submit this joint list of potential trial  
 13 objections:

- 14 1. Relevance
- 15 2. Lack of foundation
- 16 3. Cumulative (*e.g.*, photographs of firearm, numerous member photos, group  
 17 photos, racist/distasteful imagery etc)
- 18 4. Hearsay (and multiple levels of hearsay within documents) (*e.g.*, medical  
 19 records, texts/chats, jail letters)
- 20 5. Rule 403 – unduly prejudicial (*e.g.*, jail letters, racist imagery, news articles,  
 21 photos)
- 22 6. Rule 404(b)
- 23 7. Lack of authentication of documents
- 24 8. Improper character evidence -Rule 404(a)
- 25 9. Improper opinion testimony – Rule 701
- 26 10. Speculation
- 27 11. Rule 801(d)(2)(E) (not properly a co-conspirator statement)
- 28 12. Confrontation Clause, United States Constitution, Amendment VI

**JOINT GROUP ONE LIST OF COURT'S REQUESTED "BELLWETHER" OBJECTIONS**

1 13. Argumentative (*e.g.*, the Sparano Power Point presentation)

2 14. Rule 602 – Lack of personal knowledge

3 15. Rule 803 – Lack of trustworthiness

4 Finally, there are numerous categories of “exhibits” on the current United States’  
5 Exhibit List that are in fact large quantities of documents. The government has failed to  
6 properly identify which portion of these materials is the actual trial exhibit sufficient to  
7 enable the Group One defense to properly make objections (*e.g.*, data extracted from a  
8 device, medical records, large collections of videos, numerous groups of unattributed  
9 writings and notebooks, disparate writings without a preparation date, and/or documents  
10 with indecipherable text and/or incoherent content). The Group One defense reserves its  
11 right to make further objections as it deems appropriate at trial.

12 Dated: March 15, 2022

Respectfully Submitted,

13 JOHN T. PHILIPSBORN  
14 K. ALEXANDRA McCLURE  
15 ROBERT WAGGENER  
16 MARCIA MORRISSEY  
17 RICHARD G. NOVAK  
18 JAI GOHEL

19 by /s/ K. Alexandra McClure  
20 Attorney for Brian Wayne Wendt  
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